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UNCLAS SECTION 01 OF 02 PRETORIA 001288

SENSITIVE BUT UNCLASSIFIED
SIPDIS

DEPT FOR JEFFREY FREDERICK
DEPT FOR DORIS HAYWOOD

E.O. 12958: N/A
TAGS: [EWWT](#) [ECON](#) [ETRD](#) [MARR](#) [PARM](#) [PREL](#) [PHSA](#) [KOMC](#) [SF](#)
SUBJECT: SOUTH AFRICAN GOVERNMENT RESPONSE TO DEMARCHE REGARDING
ARMS/SECURITY TEAMS ABOARD MERCHANT VESSELS

REF: A. STATE 45331, B. STATE 65487

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1. (SBU) Summary. This cable responds to the items requested in paragraph four of Reftel A. Post delivered the demarche to South African Department of International Relations and Cooperation (DICO) Deputy Director of Maritime and Antarctic Policy Patrick Jacobs on May 7. Jacobs presented the request to the South African Department of Transport's Maritime Security Coordinating Committee (MSCC) for response. The MSCC is the South African Government's (SAG) coordinating committee responsible for dealing with maritime safety and security issues. The MSCC provided post with the following responses to the questions outlined in Reftel A. End Summary.

Question 1

2. (SBU) If a vessel were to employ an armed security team onboard to prevent pirate attacks, or if the crew were to have arms, would there be any restrictions or special procedures for a vessel entering or departing the port with weapons onboard?

3. (SBU) South African Response: The Firearms Control Act, 2000 (Act No. 60 of 2000) (hereafter the Act), as a general rule requires that all firearms in South Africa must be registered. Section 74 of the Act requires that a (temporary) import, export, or carriage in-transit permit be issued to persons carrying firearms entering South Africa. These permits may be issued to "fit and proper" persons, who can include non-South Africans. The Registrar of Firearms may prescribe certain conditions on the holder of the permit. Generally, as soon as a vessel docks in a South African port, the Captain or the crew in whose names the firearms are issued must report and apply for either an "import permit" or an "in-transit permit".

Question 2

4. (SBU) If a vessel armed security team or vessel crew members were to enter the country with weapons via air carrier or other transportation mode in order to board an outbound ship, would there be any restrictions or special procedures?

5. (SBU) South African Response: Armed security team members or armed crew of the vessel who arrive at an airport, must, as a general rule, apply at the local police station at the airport for an import permit or an in-transit permit. Such a permit if approved, will allow the team members or crew to transport their firearms to the port where the vessel has docked and to board the

vessel. Please note that if their firearms include "prohibited firearms" they must apply in advance to the Registrar of Firearms. Prohibited firearms are defined in section 4(1) of the Act as including fully automatic rifles, cannons, recoilless guns, rockets, and ammunition). The local police stations at the ports of entry do not deal with such applications but refer them directly to the Registrar of Firearms.

Question 3

¶16. (SBU) Are the answers to questions (1) and (2) different if the security team is governmental or private? What if the armed personnel are vessel crew members?

¶17. (SBU) South African Response: Section 96(3) of the Act provides that if a foreign military force/team visits South Africa in terms of an international obligation or agreement, these members are exempted from the provisions of this Act as it is provided for in the agreement. Military force includes military, police, security, and intelligence personnel. (Note: The exemption only applies to military personnel defined above when acting in accordance to the terms of an international obligation or agreement. Vessel crew members are still required to request permits as outlined in the responses to questions one and two. End Note)

Question 4

¶18. (SBU) Do your answers to these questions vary on whether the government security team is military or civilian?

¶19. (SBU) South African Response: South African Response: The only
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difference is whether the military team acts in terms of an international agreement or not. If they act in terms of an agreement which makes provision for such operations, the military team will, as a general rule, be exempted from the provisions of the Act as provided for in section 96(3).

Question 5

¶10. (SBU) What about anyone (pirate suspects) detained by such crews or armed security teams in territorial waters? What would national law dictate regarding disposition of said persons?

¶11. (SBU) South African Response: South African Response: Section 24(3) of the Defense Act, 2002 (Act No.42 of 2002) makes provision that any person suspected of committing an act of piracy or armed robbery may be tried by any South African court designated by the Director of Public Prosecutions.

Question 6

¶12. (SBU) Which agencies within your government are responsible for such issues?

¶13. (SBU) South African Response: The South African Police Service is responsible for the administration of the Firearms Control Act. The Department of International Relations and Cooperation (DICO) as well as the Department of Defense (DOD) will play a role in these matters.

GENERAL SAG COMMENTS

¶14. (SBU) The MSCC provided the following general comments in

addition to the responses to the specific questions. "Please note that the responses to these questions are very basic. One cannot lay down hard and fast rules. Sometimes more than one Act or regulation deals with an issue such as question two, where the security team arrives by an air carrier. Although the team may have obtained the necessary import permits in terms of the Firearms Control Act, they may still be contravening the Civil Aviation Offences Act, 1972 (Act No. 10 of 1972) by carrying a 'harmful article' on board an aircraft without the aircraft operator's consent. Harmful articles include items such as firearms, ammunition, missiles, rockets, grenades, and bombs. Transportation and storage of some of these items may also be prescribed by the Explosives Act, 2003 (Act No. 15 of 2003)."

LA LIME